



Ninety – Sixth Legislature – Second Session – 2000
Introducer's Statement of Intent
LB 971

Chairperson: Senator Kermit A. Brashear
Committee: Judiciary
Date of Hearing: 2/16/2000

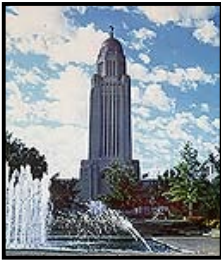
The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

This legislation effectively regulates the sale of products containing ephedra in the State of Nebraska. Specifically, the bill provides that food products or dietary supplements containing ephedrine may be sold over the counter if they are packaged with a prominent label securely affixed to each package that states: (1) the total amount in milligrams of ephedrine, or ephedrine group alkaloids in a serving or dosage unit and a dose limitation of not more than twenty-five milligrams of ephedrine or ephedrine alkaloids; (2) the amount of the product or supplement that constitutes a serving or dose unit; (3) that the maximum recommended twenty-four hour serving or dosage for an adult human is 100 milligrams; and (4) that consumption of more than the recommended serving or dosage for the product or supplement, or that consumption of a serving or dosage at a more frequent interval than recommended, may cause adverse effects.

Such products may not be marketed, advertised, or represented in any manner for the indication of stimulation, mental alertness, euphoria, ecstasy, a buzz or high, heightened sexual performance, or, because it contains ephedrine alkaloids, increased muscle mass. Any dosage form of the products or supplements may not contain any hydrochloride or sulfate salts of ephedrine alkaloids, may not contain more than twenty-five milligrams of ephedrine alkaloids, and may not contain ephedrine alkaloids in excess of five percent of the total capsule weight, and must meet the quality assurance standards established by the United States Pharmacopeia.

LB971 further provides that no person shall dispense, sell, or otherwise give to a person under 18 years of age a food product or dietary supplement containing ephedrine. A physician or pharmacy may dispense, sell or otherwise give such product or supplement to a person under 18 years of age with a prescription, and the parent or legal guardian of any person under 18 years of age may give such product or supplement to a person within the parent's or legal guardian's home. Any person violating this prohibition is guilty of a class III misdemeanor.

Any manufacturer or wholesale distributor, as indicated on the product label in conformance with the Federal Food, Drug and Cosmetic Act, who sells food products or dietary supplements containing ephedrine for resale in this state shall obtain a license from the Department of Health and Human Services Regulation and Licensure for each product line containing ephedrine sold for retail in this state. The department shall grant



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the license upon application and payment of a \$5000 application fee. The license shall expire twelve months after issuance and shall be renewed upon the payment of a \$5000 renewal fee. The license shall be subject to revocation for violation of the Uniform Controlled Substances Act. The department shall adopt, and promulgate rules to carry out this section.

Any manufacturer or wholesale distributor who sells food products or dietary supplements for resale in this state without a valid license shall be subject to a civil penalty of \$5000 and any such food products and dietary supplements shall be seized and destroyed upon the finding of a violation of this section. The department, in conjunction with the Attorney General, Nebraska State Patrol, and the local law enforcement agencies, shall have authority to make inspections and investigations to enforce the licensure requirements of this section. In addition, the department may seek injunctive relief for suspected violations of this section.

The bill creates the Fund for Awareness and Methamphetamine Education. The Nebraska Commission on Law Enforcement and Criminal Justice shall use the fund to support projects related to educating the public on the dangers of methamphetamine.

A person who possesses or attempts to purchase more than three packages of any drug product containing ephedrine listed in subdivision (g) (2) of Schedule IV of Section 28-405 is guilty of a Class IV misdemeanor.

Any person who sells crystal iodine to another person shall require photo identification of the purchaser and obtain a legible fingerprint of the purchaser, preferably of the right thumb. Any person who fails to identify and obtain a fingerprint as required by this section is guilty of a Class IV misdemeanor.

No person shall sell, distribute, or otherwise make available any product containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, optical isomers, or salts of optical isomers if the person knows or should reasonably know that the other person will use the product as an immediate precursor to any illegal substance. Any person who violates this provision is guilty of a class III misdemeanor.

Principal Introducer:

Senator Pam Brown